

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6717 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

JETUNBEN JAMSHERKHAN CHAVDA

Versus

MAMLATDAR

Appearance:

MR RC JANI for Petitioner

MR SP DAVE, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 14/02/97

ORAL JUDGEMENT

It is unfortunate that for a very small prayer,
the petitioner has been obliged to approach this Court.

The land bearing Survey No.211 admeasuring 6
acres situated at village Dhanera, under the Dhanera
Taluka of Banaskantha District was a subject matter of

some proceedings between the landlady Chuniben Bhil and the tenant Jamsherkhan Chavda, who happened to be the husband of the present petitioner. Under the orders dated January 1, 1991, the controversy has been resolved and the tenant, since deceased Jamsherkhan was declared to be the deemed purchaser of the land in question. The total amount of Rs.6,711.44 ps. was to be paid by the tenant as the purchase price under a single instalment within a period of six months. It was also ordered that, on being done that, the certificate under Section 32M of the Bombay Tenancy and Agricultural Lands Act, 1948 should be issued in favour of the tenant. It appears that, the petitioner had, in the capacity of the heir and legal representative of the deceased-tenant, had paid the total amount in the Government treasury. Later on, the petitioner, widow of the original tenant is repeatedly asking for two documents namely, the sale certificate under Section 32-M of the Tenancy Act, 1948 and the Khedut Khataavahi. The Government officials are not doing so under the guise that the dispute between the parties was pending before the Special Secretary (Appeals), Ahmedabad. But, now, there is on record, the orders passed by the said authority at Annexure.A saying that, the said proceedings were not contested by Chuniben who was the original landlady of the land under question and that, ultimately, the revision has been dismissed, as withdrawn. Despite this, there are the communications saying that, as the matter is pending at higher level, the said certificate and the Khataavahi could not be given. This, obviously, is an incorrect statement of the fact-situation. The said proceedings have been disposed of in the year 1994 and, thereafter, without any lapse of time, the said formalities should have been completed and the sale certificate and the Khedut Khataavahi should have been given to the present petitioner.

In this fact-situation, the present petition is allowed. The respondents herein are hereby ordered and directed to handover the above said two documents, namely, Certificate under Section 32-M of the Tenancy Act, 1948 and the Khedut Khataavahi to the petitioner as early as possible, and at any rate, within a period of two months from the date of the receipt of the present orders. Rule is made absolute to the said extent, with no order as to costs. Direct service is permitted.

It is clarified upon a plea coming from learned Govt. Counsel Mr. Dave that, the respondents authorities will be at liberty to take appropriate action in respect of the said documents if the decision of the Gujarat Revenue Tribunal passed in Revision Application

No. TEN-BA/490/92 is reversed by the higher judicial forum.
